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9 Attorneys for Plaintiffs  
10 GREGORY PANOS and PETER POULLOS  
(related action)

11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14  
15 SAN JOSE DIVISION

16 GREGORY P. PANOS,  
17  
18 Plaintiff,

19 v.

20 SANTA CRUZ SEASIDE COMPANY, a  
21 California Corporation; and DOES  
22 1-10, inclusive,  
23 Defendants.

24 PETER POULLOS,  
25  
26 Plaintiff.

27 v.

28 SANTA CRUZ SEASIDE COMPANY, a  
California Corporation; and DOES  
1-10, inclusive,  
Defendants.

Case Nos. CV11-3769-PSG (PSGx)  
CV11-3982-PSG (PSGx)

**CONSENT DECREE AND  
~~PROPOSED~~ ORDER**

Judge: Honorable Paul S. Grewal

1 TO THE COURT, ALL INTERESTED PARTIES AND ATTORNEYS OF  
2 RECORD:

3 1. Plaintiff GREGORY P. PANOS filed this action (known as Case No. CV11-  
4 3769-PSG (PSGx) against Defendant arising out of his experience at the Santa Cruz  
5 Boardwalk as a person with a disability who relies upon a Segway as his mobility device. In  
6 his action, PANOS is seeking money damages and injunctive relief for, inter alia, violations  
7 of the Americans with Disabilities Act of 1990 (the "ADA"), corresponding state law claims  
8 as well as common law claims in the United States District Court for the Northern District of  
9 California on August 1, 2011 and later amended through the filing of a First Amended  
10 Complaint on August 11, 2011. On August 12, 2011, Plaintiff PETER POULLOS filed an  
11 action against the same Defendant with similar allegations and requested relief arising out of  
12 his experience at the Santa Cruz Boardwalk as a person with a disability who relies upon a  
13 Segway as his mobility device. (Case no. CV11-3982-PSG (PSGx) ) On September 22,  
14 2011, Judge Paul S. Grewal ordered that the cases are related (Document No. 8). Defendant  
15 SANTA CRUZ SEASIDE COMPANY ("Defendant") filed a response to these complaints  
16 on September 30, 2011.

17 2. Defendant and Plaintiffs (collectively sometimes referred to herein as the  
18 "Parties" or separately as a "Party") wish to settle the portion of the cases relating to issues  
19 of injunctive relief and hereby desire to enter into this Consent Decree. The Parties hereby  
20 enter into this Consent Decree and Order for the purpose of resolving certain specified  
21 aspects of the lawsuits without the need for protracted litigation, and without the admission  
22 of liability of any kind, including, but not limited to : (a) the availability or amount of  
23 damages; (b) the amount of attorneys' fees to which Plaintiffs may be entitled; or (c)  
24 violation of any law, including those alleged in the complaints.

25 **JURISDICTION:**

26 3. The Parties agree that the Court has jurisdiction of this matter for alleged  
27 violations of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq. and  
28

1 pursuant to supplemental jurisdiction under 28 U.S.C. §1367(a) for alleged violations of  
2 California Civil Code §§54 and 54.1.4; and

3 4. In order to avoid the costs, expense, and uncertainty of protracted litigation, the  
4 Parties agree to entry of this Order to resolve all claims regarding injunctive relief raised in  
5 the above-entitled Actions. Accordingly, the Parties agree to the entry of the proposed Order  
6 related to this Consent Decree without trial or further adjudication of the issues addressed  
7 herein.

8 **NO DISMISSAL OF ACTION REQUESTED:**

9 5. Monetary issues are still at issue and accordingly the Parties do not request that  
10 the Honorable Court dismiss the actions as these issues may still proceed to trial.

11 **WHEREFORE**, the Parties hereby agree and stipulate to the Court's entry of this  
12 Consent Decree and Order, which provides as follows:

13 **SETTLEMENT OF INJUNCTIVE RELIEF:**

14 6. This Order shall be a full, complete, and final disposition and settlement of  
15 Plaintiffs' claims against Defendant and any other parties for injunctive relief that have  
16 arisen out of the acts and/or omissions alleged, or which could have been alleged, in the  
17 subject Complaints.

18 7. Remedial Measures: The Segway policy agreed upon by the Parties is  
19 attached here to as Exhibit "A", which has been implemented by Defendant

20 8. If Plaintiffs contend any policy change to be implemented under the Consent  
21 Decree has not been carried out correctly, Plaintiffs will, collectively, provide written notice  
22 to Defendant via its counsel detailing in what respect Plaintiff contends Defendant's policy is  
23 non-compliant. Within fourteen (14) calendar days of receiving this notice, Defendant will  
24 respond to said notice. If the Parties are unable to agree upon a course of action, they will  
25 hold a meet and confer within thirty (30) calendar days of Plaintiffs' written notice and will  
26 use their best efforts to resolve the dispute informally. If the Parties are still unable to agree,  
27 they will submit the matter to the judge then-assigned to the case.  
28

**ISSUES RELATED TO DAMAGES, ATTORNEYS FEES, LITIGATION  
EXPENSES, AND COSTS REMAIN UNRESOLVED:**

9. The Parties have not reached an agreement regarding either of the Plaintiffs' claims for damages, attorneys' fees, litigation expenses and costs in each of the Actions (collectively, the "Unresolved Issues"). These Unresolved Issues shall be the subject of further negotiation, settlement, litigation, and/or motions to the Court. Should the Parties later reach an agreement regarding the Unresolved Issues; the terms of that agreement may be set forth in a separate settlement agreement. Nothing set forth herein shall be deemed to in any way limit or effect a waiver of either of Plaintiffs' past, present or future rights and/or remedies to recover damages, attorneys' fees, litigation expenses or costs in connection with each of their alleged losses, costs, damages, claims and causes of action as set forth in each of the operative Complaints or otherwise, or any rights of the Defendant

**ENTIRE CONSENT ORDER:**

10. This Consent Decree and Order and Exhibit "A" to the Consent Decree, which is incorporated herein by reference as if fully set forth in this document, constitutes the entire agreement between the signing Parties on all matters of injunctive relief, and no other statement, promise, or agreement, either written or oral, made by any of the Parties or agents of any of the Parties, that is not contained in this written Consent Decree and Order, shall be enforceable regarding the matters of injunctive relief specifically described herein.

**CONSENT ORDER BINDING ON PARTIES AND SUCCESSORS IN  
INTEREST:**

11. This Consent Decree and Order shall be binding on Plaintiffs and Defendant and any of Defendant's successors in interest, heirs and assigns, or any them, and each of their respective successors in interest, heirs and assigns or any of them. The Parties have a duty to so notify all such successors in interest of the existence and terms of this Consent Decree and Order during the period of the Court's jurisdiction of this Consent Decree and Order and each party hereby represents and warrants that they shall inform each of their successors and assigns, including any person or entity acquiring an interest in the Property or

1 the business operated thereat of the terms of this Consent Decree and the fact that it shall be  
2 binding upon said successors and assigns.

3 **MUTUAL RELEASE AND WAIVER OF CIVIL CODE SECTION 1542 AS TO**  
4 **INJUNCTIVE RELIEF ONLY:**

5 12. Except for the obligations set forth in this Consent Decree and the Unresolved  
6 Issues, the Parties, on behalf of themselves, their respective agents, representatives,  
7 predecessors, successors, heirs, partners and assigns, releases and forever discharges each  
8 other Party and all officers, directors, shareholders, subsidiaries, joint venturers,  
9 stockholders, partners, parent companies, employees, agents, attorneys, insurance carriers,  
10 heirs, predecessors, and representatives of each other Party, from all claims, demands,  
11 actions, and causes of action of whatever kind or nature, presently known or unknown,  
12 arising out of or in any way connected with the current physical condition and/or  
13 accessibility of the Property whether or not addressed in the instant action.

14 13. Each of the Parties understands and agrees that there is a risk and possibility  
15 that, subsequent to the execution of this Consent Decree, any or all of them will incur, suffer,  
16 or experience some further loss or damage with respect to the current condition and/or  
17 accessibility of the Property, which are unknown or unanticipated at the time this Consent  
18 Decree is entered. Therefore, except for all obligations required in this Consent Decree, and  
19 the Unresolved Issues, it is the intent of the Parties that the release set forth in of this  
20 Consent Decree shall apply to and cover any and all claims, demands, actions and causes of  
21 action by the Parties with respect to the current physical condition of the Property and any or  
22 all improvements thereon, whether the same are known, unknown or hereafter discovered or  
23 ascertained, and the provisions of Section 1542 of the California Civil Code are hereby  
24 expressly waived. Section 1542 provides as follows:

25 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
26 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
27 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF  
28 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS  
OR HER SETTLEMENT WITH THE DEBTOR.

**TERM OF THE CONSENT DECREE AND ORDER:**

14. This Consent Decree and Order shall be in full force and effect for a period of twelve (12) months after the date of entry of this Consent Decree and Order, or until the injunctive relief contemplated by this Order is completed, whichever occurs later. The Court shall retain jurisdiction of this action to enforce provisions of this Order for twelve (12) months after the date of this Consent Decree, or until the relief contemplated by this Order is completed, whichever occurs later.

**SEVERABILITY:**

15. If any term of this Consent Decree and Order is determined by any court to be unenforceable, all other terms of this Consent Decree and Order shall nonetheless remain in full force and effect.

**SIGNATORIES BIND PARTIES:**

16. Signatories on the behalf of the Parties represent that they are authorized to bind the Parties to this Consent Decree and Order. This Consent Decree and Order may be signed in counterparts and a facsimile or e-mail signature shall have the same force and effect as an original signature.

January 09, 2012  
Dated: ~~December~~, 2011 *or*

By:   
GREGORY P. PANOS, Plaintiff

Dated: December , 2011

By: \_\_\_\_\_  
PETER POULLOS, Plaintiff

Dated: December , 2011

SANTA CRUZ SEASIDE COMPANY

By: \_\_\_\_\_  
Name/Signature, Defendant  
Title: \_\_\_\_\_



1 **TERM OF THE CONSENT DECREE AND ORDER:**

2 14. This Consent Decree and Order shall be in full force and effect for a period of  
 3 twelve (12) months after the date of entry of this Consent Decree and Order, or until the  
 4 injunctive relief contemplated by this Order is completed, whichever occurs later. The Court  
 5 shall retain jurisdiction of this action to enforce provisions of this Order for twelve (12)  
 6 months after the date of this Consent Decree, or until the relief contemplated by this Order is  
 7 completed, whichever occurs later.

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 10 unenforceable, all other terms of this Consent Decree and Order shall nonetheless remain in  
 11 full force and effect.

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 14 bind the Parties to this Consent Decree and Order. This Consent Decree and Order may be  
 15 signed in counterparts and a facsimile or e-mail signature shall have the same force and  
 16 effect as an original signature.

17 *January 07, 2012*  
 18 Dated: ~~December~~ *January 07, 2012*, 2011 *or*

By: *Gregory P. Panos*  
 GREGORY P. PANOS, Plaintiff

20 Dated: December , 2011

By: \_\_\_\_\_  
 PETER POULLOS, Plaintiff

22 *FEBRUARY 06, 2012*  
 Dated: ~~December~~ *FEBRUARY 06, 2012*, 2011

SANTA CRUZ SEASIDE COMPANY

By: *[Signature]*  
 Name/Signature, Defendant  
 Title: *DIRECTOR of SAFETY & SECURITY*  
 WES W. WALKER

JAN. 13. 2012 2:26PM

RADIOLOGY DEPARTMENT

NO. 8127 P. 7

**TERM OF THE CONSENT DECREE AND ORDER:**

14. This Consent Decree and Order shall be in full force and effect for a period of twelve (12) months after the date of entry of this Consent Decree and Order, or until the injunctive relief contemplated by this Order is completed, whichever occurs later. The Court shall retain jurisdiction of this action to enforce provisions of this Order for twelve (12) months after the date of this Consent Decree, or until the relief contemplated by this Order is completed, whichever occurs later.

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**SIGNATORIES BIND PARTIES:**

16. Signatories on the behalf of the Parties represent that they are authorized to bind the Parties to this Consent Decree and Order. This Consent Decree and Order may be signed in counterparts and a facsimile or e-mail signature shall have the same force and effect as an original signature.

Dated: December , 2011

By: GREGORY F. PANOS, Plaintiff

Dated: December , 2011

By: P. Poulos  
PETER POULLOS, PlaintiffDated: FEBRUARY 06, 2012  
Dated: December , 2011

SANTA CRUZ SEASIDE COMPANY

By: [Signature]  
Name/Signature, Defendant:  
Title: DIRECTOR OF SAFETY & SECURITY

CONSENT DECREE AND [PROPOSED] ORDER

Page 6 of 7



1 APPROVED AS TO FORM:

2 *January 16, 2012*  
3 Dated: December 16, 2011

LAW OFFICE OF LESLEY HARRIS

4 By: 

5 LESLEY HARRIS  
6 Counsel for Plaintiffs  
7 GREGORY P. PANOS and  
8 PETER POULLOS

9 Dated: December 16, 2011

DAVID GEFFEN LAW FIRM

10 By: \_\_\_\_\_

11 DAVID GEFFEN  
12 Counsel for Plaintiffs  
13 GREGORY P. PANOS and  
14 PETER POULLOS

15 Dated: December 16, 2011

NEWTON REMMEL

16 By: \_\_\_\_\_

17 STEPHEN L. NEWTON  
18 Counsel for Defendant  
19 SANTA CRUZ SEASIDE COMPANY

20 **IT IS SO ORDERED.**

21 Dated: December 16, 2011

22 \_\_\_\_\_  
23 Honorable Paul S. Grewal  
24 United States District Court Judge

JAN. 13. 2012 2:26PM

RADIOLOGY DEPARTMENT

NO. 8127 P. 8

1 APPROVED AS TO FORM:

2 Dated: December , 2011

LAW OFFICE OF LESLIE HARRIS

By: \_\_\_\_\_

LESLEY HARRIS  
Counsel for Plaintiffs  
GREGORY P. PANOS and  
PETER POULLOS

3  
4  
5  
6  
7 ~~Dated: December , 2011~~

DAVID GEFFEN LAW FIRM

By: \_\_\_\_\_

DAVID GEFFEN  
Counsel for Plaintiffs  
GREGORY P. PANOS and  
PETER POULLOS

8  
9  
10  
11  
12 Dated: December , 2011

NEWTON REMMEL

By: \_\_\_\_\_

STEPHEN L. NEWTON  
Counsel for Defendant  
SANTA CRUZ SEASIDE COMPANY

13  
14  
15  
16  
17 IT IS SO ORDERED.

18 Dated: December , 2011

Honorable Paul S. Grewal  
United States District Court Judge

1 APPROVED AS TO FORM:

2 Dated: December , 2011

LAW OFFICE OF LESLIE HARRIS

4 By: \_\_\_\_\_

5 LESLEY HARRIS  
6 Counsel for Plaintiffs  
7 GREGORY P. PANOS and  
8 PETER POULLOS

7 Dated: December \_ , 2011

DAVID GEFFEN LAW FIRM

8 By: \_\_\_\_\_

9 DAVID GEFFEN  
10 Counsel for Plaintiffs  
11 GREGORY P. PANOS and  
12 PETER POULLOS

11 *January 30, 2012*  
12 Dated: ~~December~~ , 2011

NEWTON REMMEL

13 By: \_\_\_\_\_

14 *Stephen L. Newton*  
15 STEPHEN L. NEWTON  
16 Counsel for Defendant  
17 SANTA CRUZ SEASIDE COMPANY

17 **IT IS SO ORDERED.**

18 Dated: ~~December~~ XXXXX, 201X  
19 March 26, 2012

20 *Paul S. Grewal*  
21 Honorable Paul S. Grewal  
22 United States District Court Judge  
23  
24  
25  
26  
27  
28